

Susan E. Firtch, CASB# 154624
 Eva P. Kwan, CASB# 246034
 BURNHAM BROWN
 A Professional Law Corporation
 P.O. Box 119
 Oakland, California 94604

 1901 Harrison Street, 11th Floor
 Oakland, California 94612
 Telephone: (510) 444-6800
 Facsimile: (510) 835-6666
 Email: dwaterr@burnhambrown.com
 sfirtch@burnhambrown.com
 ekwan@burnhambrown.com

Attorneys for Defendant
 MARKEL INSURANCE COMPANY

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CITI APARTMENTS, INC.; PRIME
 APARTMENT PROPERTIES, LLC; PRIME
 PROPERTIES I, LLC; RMSV BAY CITI
 PROPERTIES I DE, LLC; RMSV BAY CITI
 PROPERTIES I, LLC; 124 MASON, DE,
 LLC; TROPHY PROPERTIES, VI, LLC;
 LRL CITI PROPERTIES I DE, LLC;
 FRANK LEMBI; WALTER LEMBI;
 ANDREW J. HAWKINS,

Plaintiffs,

v.

MARKEL INSURANCE COMPANY; and
 DOES 1 through 100, inclusive,

Defendants.

CITI APARTMENTS, INC., et al.

Plaintiffs,

v.

MARKEL INSURANCE COMPANY; and
 DOES 1 through 100 inclusive,

Defendants.

Nos. C 06 05752 CW
 C 06-7086

**PARTIES' STIPULATION TO
 CONTINUE THE 8/23/07 COMBINED
 MOTION HEARING AND CMC, AND
 ALL RELATED DATES; ORDER**

Date: August 23, 2007
 Time: 2:00 p.m.
 Dept.: Courtroom 2, 4th floor
 Judge: Hon. Claudia Wilken

Complaint Filed: August 21, 2006

1 Pursuant to Local Rule 6-2, Defendant MARKEL INSURANCE COMPANY (“Markel”)
2 and Plaintiffs CITI APARTMENTS, INC.; PRIME APARTMENT PROPERTIES, LLC;
3 PRIME PROPERTIES I, LLC; RMSV BAY CITI PROPERTIES I DE, LLC; RMSV BAY CITI
4 PROPERTIES I, LLC; 124 MASON, DE, LLC; TROPHY PROPERTIES, VI, LLC; LRL CITI
5 PROPERTIES I DE, LLC; FRANK LEMBI; WALTER LEMBI; ANDREW J. HAWKINS
6 (“Plaintiffs”), by and through their respective attorneys of record hereby request and stipulate to
7 a continuance of the combined Case Management Conference/hearing on motion to dismiss first
8 amended complaint that is currently set for August 23, 2007, to September 27, 2007, and that all
9 related dates be changed accordingly as set forth below. Markel is represented by Susan E.
10 Firtch of Burnham | Brown. Plaintiffs are represented by Walter G. Crump of Kornblum &
11 Associates.

12 The request and stipulation are based on the following grounds.

13 1. In its June 11, 2007 order granting Markel’s motion for summary judgment and
14 Plaintiffs’ motion for leave to file a first amended complaint to bring new claims, court set the
15 hearing date for any motion to dismiss that Markel might file, and a Case Management
16 Conference (“CMC”), for August 23, 2007 at 2:00 p.m.

17 2. Plaintiffs filed their first amended complaint, and Markel filed a motion to
18 dismiss pursuant to FRCP 12(b)(1) and (12)(b)(6). Under the present schedule, Plaintiffs’
19 opposition is due August 2, Markel’s opposition is due August 9, a joint CMC statement is due
20 August 16, and the motion hearing/CMC is set for August 23, 2007.

21 3. On July 26, 2007 the parties participated in mediation with Judge Rebecca
22 Westerfield (ret.) pursuant to the ADR mediation program. The parties were able to reach an
23 agreement in principle, entitled “deal points,” which has not yet been finalized and/or executed.
24 While the parties hope that it will be finalized and executed, it appears that this cannot happen
25 prior to August 2, the due date of Plaintiffs’ opposition to the motion to dismiss, because
26 Plaintiffs’ corporate counsel will be unavailable from approximately July 27 through August 3
27 for medical reasons.

28 ///

4. In order to give the parties time to finalize/execute their settlement agreement, yet keep Markel's motion to dismiss on calendar in the event the settlement falls through, the parties have agreed to extend all of the currently scheduled dates by one month (keeping the CMC/hearing date on a Thursday per the Court's schedule). Judge Westerfield approved of the Parties' plan to continue the dates by one month in order to facilitate settlement. If the Parties do consummate their settlement, the motion to dismiss will be taken off calendar, but the CMC will still be necessary to work out the entry of judgment on Markel's prior summary judgment motion, which is part of the planned settlement.

THEREFORE, PLAINTIFFS AND MARKEL STIPULATE AND AGREE TO THE FOLLOWING SCHEDULE:

Filing of Plaintiffs' opposition by	September 6, 2007;
Filing of Markel's reply by	September 13, 2007;
Filing of Joint CMC Statement by	September 20, 2007;
Hearing on Motion/CMC by	September 27, 2007.

Based on the foregoing, the parties respectfully request that this Court enter an Order granting the continuance to the dates set forth above.

DATED: _____

 SUSAN E. FIRTCH
 BURNHAM BROWN
 Attorneys for Defendant
 MARKEL INSURANCE COMPANY

DATED: _____

 Walter G. Krump
 Kornblum & Associates
 Attorneys for Plaintiffs

PURSUANT TO THE PARTIES' STIPULATION, IT IS HEREBY ORDERED THAT:

If the case has not settled and Markel's motion to dismiss remains on calendar, Plaintiffs' Opposition to Markel's motion shall be filed on or before September 6, 2007; Markel's reply

1 shall be filed on or before September 13, 2007; regardless of whether or not the motion remains
2 on calendar, the Parties' Joint CMC Statement shall be filed on or before September 20, 2007;
3 the hearing date for the motion to dismiss (if it proceeds) and the CMC is continued to Thursday
4 September 27, 2007 at 2:00 p.m.

5 DATED: 7/30/07



Hon. Claudia Wilken

8 815748